REMARKS/ARGUMENTS

Claim 22 has been amended herein. Reconsideration of the application is respectfully requested in view of such amendment and the arguments presented below.

In the Advisory Action, the Examiner has maintained the objection to dependent claims 22-26 as containing allowable subject matter, but being dependent upon a rejected base claim. Inasmuch as claim 22 has been rewritten in independent form herein to include all the limitations of base claim 19 from which claim 22 directly depended, it is believed that claim 22, as well as its dependent claims 23-26 are now in condition for allowance. A notice of allowance with respect to claims 22-26 is respectfully requested.

With respect to independent claims 19 and 20, the rejection of those claims has been maintained in the Advisory Action. Reconsideration of the rejection of those claims is respectfully requested in view of the following arguments.

In the final rejection, independent claim 19 was rejected under 35 U.S.C. §102(a) as being anticipated by Myers et al. (WO 95/05132) and under 35 U.S.C. §102(e) as being anticipated by Myers et al. (U.S. Patent No. 5,700,285). Independent claim 19 claims an expandable stent-graft comprising, *inter alia*, at least one tubular layer of biaxially oriented expanded polytetrafluoroethylene comprising "nodules and fibrils" affixed to the stent. The

Examiner found the claimed braided stent and biaxilly expanded PTFE graft to be fully met by either of the Myers references. The Examiner then found that the claimed expansion ratios would also be met by either Myers reference because the Examiner contended that the stent and graft would inherently expand and contract together.

It is noted as set forth hereinabove, that claim 19 uses the term "nodules" in the claimed biaxially expanded PTFE element. In both Myers references, the expanded PTFE film is described as having a microstructure of "nodes 11 connected by fibrils 12". The terms "nodules" is not used in either of the Myers references. Accordingly, in rejecting claim 19 under both of the Myers references, the Examiner ascribed a meaning of the term "nodules" in claim 19 to be synonymous with the term "nodes" as used in both Myers references.

Now with respect to independent claim 20, the Examiner maintains the rejection thereof under 35 U.S.C. §103(a) as being unpatentable over Banas et al. (U.S. Patent No. 5,749,880) in view of Wallsten (U.S. Patent No. 4,954,126). The Examiner contends that Banas et al. discloses many stent types, referring to column 12, lines 49 et seq., which allegedly can be bonded to unite axially expanded PTFE with no nodules. The Examiner further contends that the expanded PTFE in Banas has no "nodules", only "nodes", contending that there is different meaning in the art between the terms "nodes" and "nodules". Having found these terms to be

synonymous in the anticipation rejection of claim 19, it is respectfully submitted that the Examiner cannot now ascribe a different meaning to those terms in rejecting claim 20.

The term "nodules" as used in claim 20 must be construed to have the same meaning "nodules" has in claim 19. The subject specification (see page 7, line 21, where PTFE is defined as having a microstructure comprised of nodules 2 and fibrils 4, 4') uses only the term "nodules" and not the term "nodes", and therefore the term "nodules" must be considered to have an identical meaning for claims 19 and 20. To construe the term "nodules" to have different meanings in two different claims where the specification only provides one meaning, is therefore improper as a matter of law and any rejection based thereon is untenable.

Accordingly, if the Examiner maintains the rejection of independent claim 19, then the rejection of claim 20 cannot stand. Claim 19 is rejected because the term "nodules" is allegedly met by the showing and description in both the Myers references of ePTFE having nodes 11 connected by fibrils 12. Thus, nodules equals nodes. In Banas et al., the expanded PTFE extrudate is described as having a "characteristic node and fibril microstructure" (column 23, lines 1-3). The described characteristic node and fibril microstructure of Banas et al. is therefore no different than the node and fibril microstructure of the ePTFE graft in both Myers et al. references. As such, and in accordance with the Examiner's own definition which he applied in rejecting claim 19, Banas et al., just like the Myers et al. references, indeed also shows

"nodules", which were equated by the Examiner to "nodes". Claim 20 specifically recites that the expandable stent-graft comprises, *inter alia*, at least one layer of uniaxially oriented expanded polytetrafluoroethylene, wherein the polytetrafluoroethylene is characterized by having "substantially no ***nodules***". Since there is no distinction between the terms "nodules" and "nodes" as applied by the Examiner, and further, as being consistent with the Applicant's description in the specification, the claimed polytetrafluoroethylene is appropriately construed as also characterized by having "substantially no ***nodes***".

With this consistent interpretation of the term "nodules" in claim 20, it is clear that the rejection of claim 20 cannot stand. The characteristic node and fibril microstructure of the ePTFE graft of Banas et al. clearly contains nodules, just like the Myers et al. references. There is no indication whatsoever in Banas et al. that the characteristic node and fibril microstructure have substantially no nodules or nodes and, on the contrary, the use of the term "characteristic" would imply to those skilled in the art that the Banas et al. microstructure has substantially more nodes than not. Since Banas et al. fails to meet the claimed ePTFE characterized by having substantially no nodules, it is submitted that even if it were obvious to combine the Wallsten reference as suggested by the Examiner, such combination would fail to meet claim 20. The Examiner contends that there is no example of what constitutes a no-nodule structure as claimed. It is submitted that an example of such structure is not required provided the description satisfies

the requirements of 35 U.S.C. §112, paragraph 1. Such requirements are satisfied by the description on page 9, lines 3-5 of the subject specification.

The Examiner has also alleged that the claim 20 directed to the no-nodule structure would encompass any uniaxially expanded structure. Such contention is respectfully traversed. In both the Myers et al. references, a microstructure having nodes interconnected by fibrils is shown and described for uniaxially-oriented fibrils (Fig. 2), biaxially oriented fibrils (Fig. 3A), and multi-axially oriented fibrils (Fig. 3B). In Figure 2 directed to the uniaxially, oriented fibrils, it is clear that the microstructure contains a plurality of substantially parallel fibrils 12 as well as a plurality of nodes 11 connecting such fibrils 12. Thus, the Examiner's contention that the no-nodule structure as claimed would encompass uniaxially expanded structure is simply not supportable as shown by the Myers et al. references.

With claims 22-26 being in condition for allowance and with claim 20 herein distinguishing patentably over the cited art, it is respectfully requested that a further Advisory Action be received at least indicating the allowance of claims 20 and 22-26.

Should the Examiner have any questions concerning this submission, the Examiner is invited to contact the undersigned attorney at the telephone number identified below.

Respectfully submitted,

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VERSION OF AMENDMENT WITH MARKINGS SHOWING CHANGES

IN THE CLAIMS:

Please amend claim 22 as follows:

22. (Amended) [The expandable stent-graft according to claim 19 wherein the tubular layer of expanded polytetrafluoroethylene has] An expandable stent-graft comprising:

(a) a braided self-expanding stent characterized by a longitudinal shortening upon radial expansion from a first longitudinal stent length to a second longitudinal stent length; and

(b) at least one tubular layer of biaxially oriented expanded polytetrafluoroethylene comprising nodules and fibrils affixed to the stent characterized by a shortening of average longitudinal inter-nodule distance upon radial expansion from a first average longitudinal inter-nodule distance to a second average longitudinal inter-nodule distance and having (i) a first average longitudinal inter-nodule distance of between about 50 and about 150 microns, and (ii) a second average longitudinal inter-nodule distance of between about 0 and about 50 microns;

wherein the ratio of first longitudinal stent length to second longitudinal stent length is within about 25 percent of the ratio of first average longitudinal inter-nodule distance to a second average inter-nodule distance.